

EXHIBIT 8

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

THOMAS KRAKAUER, on)
behalf of a class of)
persons,)
Plaintiff,)
vs.) Case No.: 14-CV-333
DISH NETWORK,)
Defendant.)
_____)

VIDEOTAPED DEPOSITION OF DAVID HILL
San Ramon, California
Friday, October 10, 2014

BY: HEIDI BELTON, CSR, RPR, CRR, CCRR, CLR
CSR LICENSE NO. 12885
JOB NO. 83910

1 Q And how about the federal Do Not Call
2 list? Is that somehow infused into the software
3 also?

4 A I don't understand "infused into the
5 software."

6 Q Well, do you -- does your software provide
7 a mechanism where if there's a number that comes up
8 that's on the federal Do Not Call list, that number
9 won't be called?

10 A That responsibility is up to the
11 customer's --

12 Q That's the customer?

13 A -- Five9's customer's responsibility.

14 Q All right. Who actually makes the calls,
15 then, the customer or Five9? Who initiates the
16 phone calls?

17 A The customer.

18 Q And the customer would have their own
19 phone system to do that?

20 A I don't understand. When you say "their
21 own phone system to do that," can you clarify?

22 Q Well, I mean, they're the ones, to use a
23 colloquial term, dialing the calls, the customer?

24 A Yes, right.

25 Q And so Five9 -- is it accurate to say that

1 Five9 doesn't really provide a phone system for its
2 customers; it provides more of a software system or
3 platform for their calls to be connected and made?

4 A Yes, I believe that's accurate. It's a
5 software system.

6 Q I represent DISH Network, Mr. Hill. Have
7 you ever had any contact with DISH Network from a
8 business perspective?

9 A I don't believe so.

10 Q Are you aware of any contract that Five9
11 might have with DISH Network for the provision of
12 any types of services?

13 A I'm not aware of one.

14 Q Do you know if Five9 has any customers who
15 are DISH Network retailers?

16 A I'm not aware of any.

17 Q Have you heard of a company called
18 Satellite Systems Network?

19 A Yes.

20 Q And tell me what you've heard about that
21 company.

22 A Only what I have read in preparation for
23 this deposition. Reviewing their contract.

24 Q Their contract with Five9?

25 A That is correct.

1 Security -- I'm sorry -- to Satellite Systems?

2 A Based on Addendum B, the front page of
3 this document, it looks like we have -- they have
4 contracted for 12 outbound licenses.

5 Q And what is an outbound license?

6 A A license is a subscription to use our
7 services, our software. "Outbound," meaning the --
8 they would be dialing outbound, as opposed to an
9 inbound.

10 Q And VCC means what?

11 A Virtual contact center.

12 Q And, I'm sorry, did you -- did you say
13 they would be -- have licenses to use the Five9
14 dialer? Is that what you said?

15 A I said they would have licenses to have
16 access to our services; to our software, our VCC.

17 Q All right. Does Five9 have a quote,
18 unquote, "dialer"?

19 A Dialer, I think, is a generic term.
20 Personally I don't -- I don't think of our service
21 as a dialer. I personally think of our service as a
22 software provider. We provide them access to our
23 service. Through that service they can receive and
24 make phone calls.

25 Q And how does -- I'm going to call them SSN

1 A That is correct.

2 Q And "rate"?

3 A Rate represents the cost per -- usage cost
4 per minute.

5 Q And then it looks like we take rate times
6 bill time to get cost; is that accurate?

7 A Yes. I believe that is correct.

8 Q How about -- let's just look at the top
9 row, this number -- after cost there's "number 1"
10 and "number 2." Do you see that?

11 A I see that.

12 Q So what do those columns mean?

13 A So if you look at the first one, the
14 number listed in the column "number 1" is the same
15 number under the "DNIS" column, which is the dialed
16 number --

17 Q Got it.

18 A -- so it represents the number that was
19 called.

20 Q And then what about the "number 2" over
21 there, for that same number we're talking about, the
22 very first one?

23 A I believe that to be another number for
24 that particular person, as you see a name listed in
25 the further right-hand columns. So another contact

1 number.

2 Q And these numbers, number 1 and number 2
3 would be numbers that were input into the calling
4 system by SSN; right?

5 A That is correct.

6 Q So somehow they had an alternate phone
7 number for this first person here Kenitta?

8 MR. KELLY: Objection; lack of foundation.

9 BY MR. ZALUD:

10 Q K-E-N-I-T-T-A?

11 A I believe that to be true.

12 Q And then we go further down -- further
13 along the columns there's more information about the
14 party that's being called; right? The street
15 address of the person being called; right?

16 MR. KELLY: Objection; lack of foundation.

17 THE WITNESS: Yes, I see street address,
18 city, and state.

19 MR. ZALUD: How is there lack of
20 foundation on that?

21 MR. KELLY: Because I think his testimony
22 is that Five9 does not input that information.
23 That's information put in there by SSN. So he would
24 not know -- he would not have knowledge about
25 Kenitta -- how that information was put into the